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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/402,232 09/30/99 ESKUCHEN

R H-2849-PCT/U

023657 HM12/0201  
COGNIS CORPORATION  
2500 RENAISSANCE BLVD., SUITE 200  
GULPH MILLS PA 19406

EXAMINER

LEE, H

ART UNIT

PAPER NUMBER

1623

DATE MAILED:

02/01/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/402,232

Applicant(s)  
Eskuchen et al.

Examiner  
Howard C. Lee

Group Art Unit  
1623



☒ Responsive to communication(s) filed on Jan 26, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 11-24 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 11-24 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

*Howard C. Lee*

Howard C. Lee  
Primary Examiner  
Art Unit 1623

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1623

***Preliminary Notes***

The current assignee "Cognis Corporation" is the current name of the company once known as "Henkel Corporation" (Plymouth Meeting, PA) which in turn was a subsidiary of Henkel AG.

***35 U.S.C. 102(b) rejection***

***Claims 11-13, 16-18, 21, 22 and 24 are rejected*** under 35 U.S.C. 102(b) as being anticipated by Carduck et al. (U.S. Patent #5,554,741).

***35 U.S.C. 103(a) rejection***

***Claims 11-24 are rejected*** under 35 U.S.C. 103(a) as being unpatentable over Carduck et al. (supra).

***Response to applicants' arguments***

Applicant's arguments filed 26 January 2001 have been fully considered but they are not persuasive. The applicants arguments are not persuasive because they are arguing for limitations which are not present in the claims.

It is unclear if the applicants believed that insertion of the term "aqueous" into the claim language made the claims novel with regard to the 102(b) rejection; it does not. The applicants definition of the term "glucose sirup" in the specification (see page 2) is consistent with the definition of the term as used in the Carduck et al. reference as well as the assignees other patents. As such, the Carduck et al. reference and the present invention both use "aqueous glucose sirup".

If the applicant is arguing that the currently claimed process is devoid of a water removing step, this limitation is not manifested in the claims nor does this appear to be suggested in the examples presented in the specification (see especially the paragraph header "Acetalization" on page 4 - "It is advisable to dry the glucose sirup/fatty alcohol suspension before the acetalization reaction.")

***Status of the Claims***

No claim is allowed. ***Claims 11-24 are rejected.***

Art Unit: 1623

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

U.S. Patents 5,576,425 and 6,077,945 have been cited on PTO-Form 892 as being state of the art references.

<i>Examiner's hours, phone &amp; fax numbers and other useful information</i>
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***Note: The examiner will be resigning from his position at the U.S. PTO on 9 February 2001. Any inquiries after that date should be directed to Ms. Leigh Maier (703) 308-4525.***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Howard C. Lee whose telephone number is (703) 308-4626 and e-mail address is Howard.Lee@uspto.gov (NOTE: **The U.S. PTO does not accept responsibility for the security of e-mail transmissions by the applicant(s).** Thus, e-mail sent to an examiner should not include confidential information. For further details, see the PTO Internet Usage Policy which has been published in the Federal Register of 21 June 1999, volume 64, number 118.) The examiner can normally be reached on Monday-Friday 0700-1530 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Gary Geist (703) 308-1701, may be contacted. The fax phone number for Group 1600, Art Unit 1623 is (703) 308-4556 or 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-1235.

Visit the U.S. PTO's site on the World Wide Web at <http://www.uspto.gov>. This site contains lots of valuable information including the latest PTO fees, downloadable forms, basic search capabilities and much more!

Art Unit: 1623

***Secure and confidential access to patent application status is now available; see***  
***<http://www.uspto.gov/ebc/index.html> for more information.***

***Applicant(s) may pay patent maintenance fees, non-filing application fees and maintain***  
***USPTO accounts through <http://www.uspto.gov/web/offices/ac/comp/fin/clonedefault.htm>***

*Howard C. Lee*

Howard C. Lee  
Primary Examiner  
Art Unit 1623  
26 September 2000